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March 10, 2021

Via Electronic Filing

The Honorable Judge Gregory H. Woods
U.S. District Court, Southern District of New York
500 Pearl St.
New York, NY 10007-1312

Re: *The Pullman Group, LLC v. Isley et al*
Case No.: 1:20-cv-07293-GHW

Dear Honorable Judge Woods:

This law firm represents plaintiff The Pullman Group, LLC (the “Plaintiff”) in the above-referenced matter.

I. Introduction

Pursuant to Your Honor’s Individual Motion Practice Rule (2)(C)(ii)¹ and Rule 37(a) of the Federal Rules of Civil Procedure (“Fed.R.Civ.P.”), this letter respectfully serves to request that the Court permit Plaintiff to serve interrogatories and notices to admit on defendant Rudolph Isley (“Mr. Rudolph Isley”) instead of a deposition, on the grounds that the attorneys for Mr. Rudolph Isley have represented that Mr. Rudolph Isley is not healthy enough to sit for either a Zoom or telephonic deposition; provided however, that the Isley Defendants substantiate the representations concerning Mr. Rudolph Isley’s health. Courts in this District have permitted contention interrogatories to be served in lieu of a deposition. *Powers v. Fox Television Stations, Inc.*, 1995 WL 319857, at *1 (S.D.N.Y. 1995).

This letter also serves as a request for a pre-motion conference on Plaintiff’s contemplated motion to compel the Isley Defendants to produce responsive documents to Plaintiff’s First Request for the Production of Documents dated December 22, 2020 (the “First Document Requests”). As of the date of this letter, the Isley Defendants have not produced a single document and have interposed baseless objections to Plaintiff’s discovery demands.

As set forth below, this letter represents Plaintiff’s last resort following a frustrated effort to simply obtain responsive documents from the Isley Defendants. Thus, the Court’s intervention is required to schedule a Local Rule 37.2 pre-motion conference on Plaintiff’s contemplated motion to compel, pursuant to Fed.R.Civ.P. 37(a).

A. The Isley Defendants’ Response²

¹ Counsel for the Isley Defendants failed to timely respond to Plaintiff’s request to complete their portion of this letter, made on March 8, 2021 at 12:20 p.m. (EST). The undersigned also emailed the Isley Defendants’ counsel this morning at 8:47 a.m. (EST). No response was given.

² See fn. 1.

II. Plaintiff's Document Demands:

Shortly following the entry of the Case Management Plan, on December 22, 2020 at 8:12 a.m. (EST), Plaintiff, via electronic service, served the Isley Defendants with Plaintiff's First Document Requests. A copy of Plaintiff's First Document Requests is attached hereto as Exhibit "A".

By email dated January 22, 2021, the undersigned emailed the Isley Defendants' attorneys inquiring about the status of the Isley Defendants' response to Plaintiff's First Document Requests, which were due on January 21, 2021. Later that day, on January 22, 2021, the Isley Defendants' counsel responded, by email, that the Isley Defendants' response had been served via certified email. When the Isley Defendants' response arrived via certified mail, the Isley Defendants had objected to every single document request in Plaintiff's First Document Requests on the basis of, *inter alia*, improper service. A copy of the Isley Defendants' response dated January 21, 2021 to Plaintiff's First Document Requests (the "Isley Defendants' Response") is attached hereto as Exhibit "B".

For the sake of good offices, Plaintiff re-served Plaintiff's First Document Requests via certified mail and entered into an electronic service agreement pursuant to Fed.R.Civ.P. 5 by email on February 9, 2021. A copy of said agreement is attached hereto as Exhibit "C".

By letter dated February 16, 2021, Plaintiff served a formal deficiency letter (the "Deficiency Letter") on the Isley Defendants in connection with the Isley Defendants' Response. A copy of said letter is attached hereto as Exhibit "D".

On March 1, 2021, the Isley Defendants served their supplemental response to Plaintiff's First Document Requests (the "Supplemental Response"). A copy of the Isley Defendants' Supplemental Response is attached hereto as Exhibit "E".

The Isley Defendants' Supplemental Response objected to every single request and contained baseless objections, which Plaintiff had previously objected to in the Deficiency Letter. As of this date of this letter, the Isley Defendants have not produced a single document nearly three months after the initial service of Plaintiff's First Document Requests on December 22, 2020.

B. The Isley Defendants' Response³

³ See fn. 1.

III. Compliance with Your Honor's Individual Motion Practice Rule (2)(C)(ii) and Fed. R. Civ. P. Rule 37

In accordance with Your Honor's Individual Motion Practice Rule (2)(C)(ii) and Fed. R. Civ. P. Rule 37, the undersigned and the counsel to the Isley Defendants have held "meet and confers" on the following dates: January 11, 2021, February 3, 2021, March 1, 2021, and March 8, 2021. The parties have also exchanged dozens of emails concerning discovery between December 22, 2020 and March 8, 2021. The undersigned has made every conceivable accommodation to move this along without Court intervention.

C. The Isley Defendants' Response⁴

Thank you, in advance, for your time and attention to this matter.

Respectfully submitted,

LEVIN-EPSTEIN & ASSOCIATES, P.C.

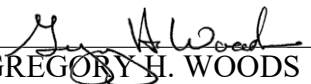
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VIA ECF: All Counsel

Application granted in part. The Court will hold a teleconference concerning Plaintiff's proposed motion to compel on March 17, 2021 at 11:00 a.m. The Court will also address Plaintiff's request to serve interrogatories and requests to admit in lieu of deposing Mr. Isley. The parties are directed to use the dial-in information and access code noted in the Court's Emergency Rules in Light of COVID-19 available on the Court's website and are specifically directed to comply with Emergency Rule 2(C).

SO ORDERED.

Dated: March 11, 2021
New York, New York


GREGORY H. WOODS
United States District Judge

⁴ See fn. 1.